

(1959) 11 KL CK 0048
In the High Court Of Kerala
Case No : A.S. No. 1116 of 1959

Kottayam Orient Bank Ltd.

APPELLANT

Vs

Kurien

RESPONDENT

Date of Decision : 05-11-1959

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 16

Citation : (1959) KLJ 1463

Hon'ble Judges : K. Sankaran, C.J; Anna Chandy, J

Bench : Division Bench

Advocate : M.P. Varghese, for the Appellant;

Final Decision : Allowed

Judgement

Sankaran C. J.

1. From the lower Court's order, it is obvious that the learned Judge did not understand the real nature and scope, of the execution petition that was under consideration. The decree was in favour of the Orient Central Bank Ltd. Subsequent to the decree, this Bank was amalgamated with the Kottayam Bank Ltd. and the new Bank is known as Kottayam Orient Bank Ltd. The present execution petition is filed by this Bank with a prayer that this Bank may be impleaded as the additional plaintiff and allowed to execute the decree. The purport of the application is that the rights under the decree have been transferred by the original decree-holder in favour of the new Bank as a result of the amalgamation of the two Banks and that the new Bank is entitled to execute the decree in the capacity of assignee-decree-holder. Thus the assignment had only to be recognised after notice to the parties concerned, and execution allowed as contemplated by Order XXI, Rule 16, C.P.C. There is no question of any amendment of the decree. The learned Judge was wrong in thinking that the decree has to be got amended. In the result, this appeal is allowed and the order of the lower court is set aside. The lower court will proceed with the execution application in accordance with law and in the light of the observations made

above.